

CARELLA, BYRNE, CECCHI, OLSTEIN, BRODY & AGNELLO, P.C.

COUNSELLORS AT LAW

CHARLES C. CARELLA
BRENDAN T. BYRNE
JAN ALAN BRODY
JOHN M. AGNELLO
CHARLES M. CARELLA
JAMES E. CECCHI

JAMES D. CECCHI (1933-1995)
JOHN G. GILFILLAN III (1936-2008)
ELLIOT M. OLSTEIN (1939-2014)

JAMES T. BYERS
DONALD F. MICELI
A. RICHARD ROSS
CARL R. WOODWARD, III
MELISSA E. FLAX
DAVID G. GILFILLAN
G. GLENNON TROUBLEFIELD
BRIAN H. FENLON
LINDSEY H. TAYLOR
CAROLINE F. BARTLETT

**5 BECKER FARM ROAD
ROSELAND, N.J. 07068-1739
PHONE (973) 994-1700
FAX (973) 994-1744
www.carellabyrne.com**

PETER G. STEWART
FRANCIS C. HAND
AVRAM S. EULE
CHRISTOPHER H. WESTRICK*
JAMES A. O'BRIEN III**

OF COUNSEL

*CERTIFIED BY THE SUPREME COURT OF
NEW JERSEY AS A CIVIL TRIAL ATTORNEY
**MEMBER NY AND MA BARS ONLY

RAYMOND J. LILLIE
WILLIAM SQUIRE
STEPHEN R. DANER
DONALD A. ECKLUND
MEGAN A. NATALE
ZACHARY S. BOWER+
MICHAEL CROSS
CHRISTOPHER J. BUGGY
JOHN V. KELLY III
MICHAEL A. INNES

+MEMBER FL BAR ONLY

October 18, 2019

VIA ECF

Honorable Madeline Cox Arleo, U.S.D.J.
United States District Court
Martin Luther King, Jr. Federal Building
and Courthouse
50 Walnut Street
Newark, NJ 07102

**Re: ALPHA CEPHEUS, LLC et al. v. CHINH CHU et al.
Case No. 2:18-cv-14322(MCA)(MAH)**

Dear Judge Arleo,

We represent Defendants Chinh Chu and Douglas Newton in the above-referenced matter. We write regarding Plaintiffs' ongoing failure to serve purported Defendants CC Capital CHT Holdco LLC and CHT Holdco LLC (the "CC Capital Entities") even though more than six months have passed since the Amended Complaint was filed.

The CC Capital Entities are affiliated with Defendants Chu and Newton. Defendants Chu and Newton, as well Defendant Truc To, have moved to dismiss the Amended Complaint and their motions are now fully briefed and pending. Consistent with the 90-day time limit for service in Federal Rule of Civil Procedure Rule 4(m), Plaintiffs should not be permitted hold their potential claims against the CC Capital Entities in abeyance until they see what happens on the pending dismissal motions. Notably, in a footnote to their Opposition to Defendants' Motions to Dismiss, Plaintiffs acknowledged that they have not served the CC Capital Entities. Doc. 83 at 1 n.1. Yet, the only explanation they offer is that "summonses have not yet been issued." *Id.* Given the amount of time that has elapsed since Plaintiffs filed the Amended Complaint—and the clear requirements of Rule 4(m)—this is no excuse at all.

In these circumstances, we respectfully request that the Court either dismiss the action against the CC Capital Entities without prejudice or order that service be made promptly. Fed. R. Civ. P. 4(m). If the Court permits Plaintiffs to serve the CC Capital Entities with the Amended Complaint at this time, we suggest the Court also enter a schedule that allows these entities to brief a motion to dismiss that can be considered together with the other pending dismissal motions.

October 18, 2019

Page 2

Thank you for Your Honor's attention to this matter. We are available at the Court's convenience to answer any questions Your Honor may have.

Very truly yours,

CARELLA, BYRNE, CECCHI,
OLSTEIN, BRODY & AGNELLO

James E. Cecchi

JAMES E. CECCHI

cc. All Counsel of Record (via ECF)